

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**FREDERICK BANKS, #05711-068**

**PLAINTIFF**

**VERSUS**

**CIVIL ACTION NO. 5:07-cv-117-DCB-MTP**

**CONSTANCE REESE**

**DEFENDANT**

**ORDER**

Before the Court is Plaintiff's notice of appeal [24]. The Plaintiff has enclosed a promissory note in the amount of \$900.00 to pay the \$450.00 appeal filing fee for this case and the \$450.00 filing fee for case number 5:07-cv-161-DCB-MTP. The Plaintiff argues that he is exempt from paying the filing fee because he is a Lakota Sioux Indian, however, in the alternative the Plaintiff included this promissory note for payment of his filing fee. This Court instructs Plaintiff that there is no "exemption" from paying the filing fee. The only exception is if the "prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Clearly, the Plaintiff has failed to meet the exception of 28 U.S.C. § 1915(g). Moreover, legal tender in regards to the filing fee is considered cash, check, money order or credit card (The Guide to Judiciary Policies, Chapter 7, Part C.2.1.3.). The Plaintiff argues that his promissory note constitutes a cash payment; the Court disagrees. Clearly, the Plaintiff has failed to pay his filing fee in legal tender. Accordingly, it is hereby

**ORDERED:**

1. That the Plaintiff is granted until and including February 5, 2008, to pay the appeal filing fee of \$450.00 in the form of cash, check, money order or credit card as required by The Guide to Judiciary Policies, Chapter 7, Part C.2.1.3..

2. That the Plaintiff is warned that failure to advise this Court of a change of address or

failure to comply with any order of this Court will be deemed as a purposeful delay and contumacious act by the Plaintiff and may result in the dismissal of this case.

THIS, the 23<sup>rd</sup> day of January, 2008.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE